

IN THE WATER COURT OF THE STATE OF MONTANA  
UPPER MISSOURI DIVISION  
SUN RIVER BASIN (41K)  
PRELIMINARY DECREE

\* \* \* \* \*

CLAIMANT: Carol M. Bloom; Robert Bloom; Russel R.  
Bloom

**CASE 41K-0014-R-2023**  
41K 96354-00

OBJECTORS: Carol M. Bloom; Robert Bloom; Russel R.  
Bloom

**NOTICE OF FILING OF MASTER'S REPORT**

This Master's Report was filed with the Montana Water Court on the above stamped date. Please review this report carefully.

You may file a written objection to this Master's Report within **10 days** of the stamped date if you disagree or find errors with the Master's findings of fact, conclusions of law, or recommendations. Rule 23, W.R.Adj.R. If the Master's Report was mailed to you, the Montana Rules of Civil Procedure allow an additional 3 days be added to the 10-day objection period. Rule 6(d), M.R.Civ.P. If you file an objection, you must serve a copy of the objection to all parties on the service list found at the end of the Master's Report. The original objection and a certificate of mailing to all parties on the service list must be filed with the Water Court.

If you do not file a timely objection, the Water Court will conclude that you agree with the content of this Master's Report.

**MASTER'S REPORT**

The above-captioned claim appeared in the Preliminary Decree for the Sun River (Basin 41K) and received an objection from Russel Bloom. The objection indicates that it

was filed on behalf of all co-owners of the claim, but the objection appears to only have been signed by Mr. Bloom. If any of the owners disagree with this Master's Report, they should file an objection as discussed above.

Mr. Bloom's objection seeks to correct the period of diversion and period of use for claim 41K 96354-00 to year-round. On April 18, 2013, Mr. Bloom had filed motions to amend to set the period of use to year-round. A Master's Report was issued on November 7, 2013, recommending that the "proposed amendments may be implemented" but appears to have failed to implement the proposal to modify the period of diversion and period of use to year-round.

The claim is hereby consolidated into Water Court Case 41K-0014-R-2023 for purposes of this Master's Report.

### **FINDINGS OF FACT**

1. Pursuant to the objection and the Master's Report issued on November 7, 2013, the period of diversion and period of use should be modified to January 1 to December 31.

### **PRINCIPLES OF LAW**

1. The Montana Water Court has the authority to determine the extent of all water rights in the state as they existed prior to July 1, 1973. *Fellows v. Saylor*, 2016 MT 45, ¶ 25, 382 Mont. 298, 367 P.3d 732; §§ 85-2-233, -102(13), MCA.

2. A properly filed Statement of Claim for Existing Water Right is prima facie proof of its content. § 85-2-227, MCA. This prima facie proof may be contradicted and overcome by other evidence that proves, by a preponderance of the evidence, that the elements of the claim do not accurately reflect the beneficial use of the water right as it existed prior to July 1, 1973. This is the burden of proof for every assertion that a claim is incorrect. Rule 19, W.R.Adj.R.

### **CONCLUSIONS OF LAW**

1. The claim should be modified as discussed above. Modification of the claim resolves the objection to the claim.

## **RECOMMENDATION**

1. Upon review the record in this case, the period of diversion and period of use for claim 41K 96354-00 should be modified to January 1 to December 31.

A Post Decree Abstract of Water Right Claim is attached to this Master's Report for review.

**ELECTRONICALLY SIGNED AND DATED BELOW.**

**Service via USPS Mail:**

Carol M. Bloom  
Robert Bloom  
Russel R. Bloom  
P.O. Box 56  
Simms, MT 59477

**POST DECREE  
ABSTRACT OF WATER RIGHT CLAIM  
SUN RIVER  
BASIN 41K**

**Water Right Number:** 41K 96354-00 STATEMENT OF CLAIM  
**Version:** 4 -- POST DECREE  
**Status:** ACTIVE

**Owners:** RUSSELL R BLOOM  
PO BOX 56  
SIMMS, MT 59477 0056  
  
ROBERT BLOOM  
PO BOX 56  
SIMMS, MT 59477 0056  
  
CAROL M BLOOM  
PO BOX 56  
SIMMS, MT 59477 0056

**Priority Date:** NOVEMBER 19, 1960  
**Type of Historical Right:** FILED  
**Purpose (use):** STOCK  
**\*Flow Rate:** 10.00 GPM  
**Volume:** THIS RIGHT INCLUDES THE AMOUNT OF WATER CONSUMPTIVELY USED FOR STOCK WATERING PURPOSES AT THE RATE OF 30 GALLONS PER DAY PER ANIMAL UNIT. ANIMAL UNITS SHALL BE BASED ON REASONABLE CARRYING CAPACITY AND HISTORICAL USE OF THE AREA SERVICED BY THIS WATER SOURCE.

**Source Name:** SPRING, UNNAMED TRIBUTARY OF SIMMS CREEK, SOUTH FORK  
**Source Type:** GROUNDWATER

**Point of Diversion and Means of Diversion:**

<u>ID</u>	<u>Govt Lot</u>	<u>Qtr Sec</u>	<u>Sec</u>	<u>Twp</u>	<u>Rge</u>	<u>County</u>
1		NENWNE	23	19N	4W	LEWIS AND CLARK

**Period of Diversion:** JANUARY 1 TO DECEMBER 31  
**Diversion Means:** FLOWING

**Period of Use:** JANUARY 1 TO DECEMBER 31

**Place of Use:**

<u>ID</u>	<u>Acres</u>	<u>Govt Lot</u>	<u>Qtr Sec</u>	<u>Sec</u>	<u>Twp</u>	<u>Rge</u>	<u>County</u>
1			NENWNE	23	19N	4W	LEWIS AND CLARK